

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Implementation of NSDD-84 -- Draft Standardized Nondisclosure Forms

STAT	FROM: [REDACTED]	EXTENSION	NO	DDA 83-0235/10
STAT	EO/DDA 7D-18 Hqs.	[REDACTED]	DATE	15 June 1983
	TO: (Officer designation, room number, and building)	DATE RECEIVED FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
STAT	1. D/Security Attn: [REDACTED] 4E-60 Hqs.			1, 3, and 5: Since the Agency response is due to NSC by 17 June, please review the attached and provide telephonic comments to [REDACTED] RSB/RMD/OIS, extension [REDACTED] by COB today, 15 June. Thanks.
STAT	2.			
STAT	3. OGC Attn: [REDACTED] 7C-36 Hqs.			
STAT	4.			
	5. Chairman, SECOM 7B-31 Hqs.			
STAT	6.			
	7. D/OIS Attn: RMD/RSB 1236 Ames			
	8.			
	9.			
	10.			
	11.			
	12.			
	13.			
	14.			
	15.			

EO/DDA [REDACTED] (15Jun83)
Distribution:
0 - OIS w/att
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United States Department of State

Washington, D.C. 20520



DD/A Registry
83-0235/10

MEMORANDUM FOR JUDGE WILLIAM P. CLARK
THE WHITE HOUSE

Subject: Implementation of NSDD-84 -- Draft Standardized
Nondisclosure Forms

On May 26, 1983, three draft forms designed to implement NSDD-84 (Safeguarding National Security Information) were submitted to the Department of State by the Information Security Oversight Office (ISOO). The Department was instructed to make any comments on the forms directly to the NSC.

The Department intends to adopt the Sensitive Compartmented Information Nondisclosure Agreement, as amended by the June 2 letter of the Director of ISOO. The Department finds that the SCI form as now drafted meets our concern for protection of sensitive intelligence-related information.

After reviewing our circumstances, the Department of State does not intend to use the draft optional Prepublication Review Agreement. The Department's established procedures on review of publications relating to matters of official concern has worked well in the past and there does not appear to be a need to adopt the optional form.

The Department has serious concerns about the draft standardized Classified Information Nondisclosure Agreement, which has not had the benefit of a general discussion by the departments and agencies concerned. This agreement would have far wider application than the SCI form since NSDD-84 requires that all new employees sign such an agreement as a condition of access to classified information. It is therefore most important that the form adopted be as tight and comprehensible as possible in order to accomplish the objectives of NSDD-84 while at the same time minimizing the concerns which will be expressed by the employee unions, as well as the Congress and the press. We urge that a meeting of all the agencies primarily affected be held as early as possible to discuss the draft standardized Classified Information Nondisclosure Agreement.

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The Department of State has certain comments on the draft form circulated by ISOO which may be useful in preparing for that meeting. In sum, we believe that the draft standardized form appears to have several serious deficiencies stemming, in part, from a lack of precision. The purpose of this form should be to indicate clearly to the employee what his obligations as to nondisclosure of classified information are so as to avoid actually having to enforce the agreement in court. However, in the present draft the obligations imposed on the employee are scattered throughout apparently without full consideration having been given to the employee's need to understand them. In addition, this draft imposes the same penalty for violations, i.e., loss of "any rights, title and interest, and all royalties, remunerations, and emoluments", as is imposed for violations of the SCI nondisclosure agreement.

The Department of State therefore submits a new form which it proposes for consideration as the standardized Classified Information Nondisclosure Agreement (TAB 1). We believe that this form is more directly suited to the general problems of nondisclosure of classified information faced by the majority of agencies that use classified information than the current draft. Assuming that this draft has no serious defects from the point of view of enforceability, it is suggested that consideration be given to its adoption as the standardized form.

Charles Hill
Executive Secretary

Enclosure:

Tab 1 - Proposed Standardized Classified Information
Nondisclosure Agreement

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Deputy Under Secretary of Defense for Policy
The Pentagon, Room 2E312
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Honorable John R. Burke
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June 15, 1983

The enclosed draft Classified Information Non-Disclosure Agreement should be added to the Department of State comments on Non-Disclosure Agreements under NSDD-84 sent to you on June 10, 1983.

CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT

An Agreement Between _____

(Print name)

and the United States of America

1. In consideration for being granted access to information and material which is classified or classifiable pursuant to Executive Order 12356 or any other Executive Order or any statute (hereinafter referred to as classified information), I agree that I will not disclose such classified information to any person not authorized to have access to such classified information until I have received written authorization from the [insert name of Department] that such disclosure is permitted. I agree that I shall return to the United States Government all classified information which may have come into my possession upon demand by an authorized representative of the United States Government or upon the conclusion of my employment or other relationship with the [insert name of Department], whichever comes first. I agree that the terms of this Agreement shall apply during the time of my access to classified information and at all times thereafter, including when I am no longer employed by or have any relationship with the [insert name of Department].

2. I acknowledge and accept that by being granted access to classified information the United States Government has placed special confidence and trust in me. I have been advised that direct or indirect unauthorized disclosure, unauthorized retention or negligent handling of classified information by me could cause injury to the United States or be used to advantage by another country.

3. I acknowledge that I have received a security briefing concerning the nature and protection of classified information, including the procedures to be followed in ascertaining whether persons to whom I contemplate disclosing such information have been cleared for access to it.

4. I have been advised that any breach of this Agreement may result in the termination of my access to classified information.

5. I have been advised that any unauthorized disclosure or retention of classified information may be a violation of United States criminal law, including the provisions of sections 793, 794, 798, and 952 of Title 18, United States Code, and section 783(b) of Title 50, United States Code, and the provisions of the Intelligence Identities Protection Act of 1982. I acknowledge that copies of these statutes have been given to me for my information.

6. I understand that all classified information to which I have access after signing this Agreement is and will forever remain the property of the United States Government. I understand that I do not now and will not ever possess any right, interest, title or claim whatsoever in any classified information.

7. I understand that the United States Government may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting unauthorized disclosure or retention of classified information. I acknowledge that I have been advised that such an action can be brought against me in any of the appropriate United States District Courts in which the United States Government elects to file. I understand that court costs and reasonable attorneys fees incurred by the United States Government may be assessed against me if I lose such an action.

8. I understand that nothing in this Agreement and no civil action taken pursuant to it constitutes a waiver by the United States of the right to prosecute me for any violation of law.

9. I understand that this Agreement concerns classified information generally and that I may have to agree to other obligations in order to have access to particular categories or classes of classified information.

10. I acknowledge that I have read this Agreement carefully and that I have had the opportunity to ask questions concerning it.

11. I agree that each provision of this Agreement is severable. Should a court find any provision of this Agreement to be unenforceable I agree that the rest of this Agreement shall continue to have full force and effect.

Signature in presence of briefing officer

Printed Name

Social Security Number

Date

(See Note below)

Witness and Acceptance:

Signature of briefing officer

Printed Name

Date

Note: The Privacy Act, 5 U.S.C. 522a, requires that federal agencies inform individuals at the time information is solicited from them by what authority such information is solicited, what uses will be made of the information, and whether the disclosure is mandatory or voluntary,. You are hereby advised that authority for soliciting your Social Security Number (SSN) is Executive Order 9397. Your SSN will be used to precisely identify you when it is necessary to certify that you are authorized to have access to classified information or that you are no longer authorized to have access to such information. While disclosure of your SSN is not mandatory, failure to disclose it may delay the processing of such certification.